


Phase 5 Post-Acceptance Performance Period



GSA Federal Office Building, Region 10 Seattle, Washington

Milestones in the ESPC Process



• Acquisition Planning	Phase 1
• ESCO Selection	2
• Preliminary Assessment	2
• Notice of Intent to Award	2
• Request for Proposal	3
• Investment-Grade Audit	3
• Proposal	3
• Task Order Award	3
• Final Design and Construction	4
• Project Acceptance	4
• Post-Acceptance Performance Period	5

Phase 5: Post-Acceptance Performance



★ ☐ O&M per Task Order



★ ☐ M&V Activities



★ ☐ Invoices and Payments



★ ☐ Task Order Closeout

Key

★ Agency Action

☐ ESCO Action

Getting construction finished and paying the invoices is not enough in federal ESPCs.

★ Agencies are responsible for making sure the government complies with its contractual responsibilities and ensuring that guaranteed savings are achieved.

Agencies can bank on being held accountable for these responsibilities.

O&M and R&R of Installed Equipment

- O&M and R&R of installed equipment are the ESCO's responsibility
 - However, performance of O&M or R&R tasks may be assigned to ESCO or agency
 - General approach and allocation of responsibilities are outlined in RRPM
- For each ECM, the TO should specify
 - Who will carry out O&M and R&R tasks
 - How performance will be verified
 - What to do if tasks are not performed
- **If agency does not meet its O&M or R&R obligations, the guarantee may be compromised.** N-5

If government performs O&M

- Task order will contain
 - Performance requirements (what & when)
 - Requirements for agency record keeping
 - Provisions for ESCO to monitor and document agency performance
- ESCO is still responsible for O&M and R&R
 - Provides O&M manuals defining O&M procedures
 - Provides training to agency on O&M
 - Notifies site of any deficiencies in O&M and R&R

The task order may also define:

- Criteria for ESCO to take over operations
- Criteria for ESCO to take over maintenance prior to equipment failure
- How ESCO is to be paid for performing government's activities

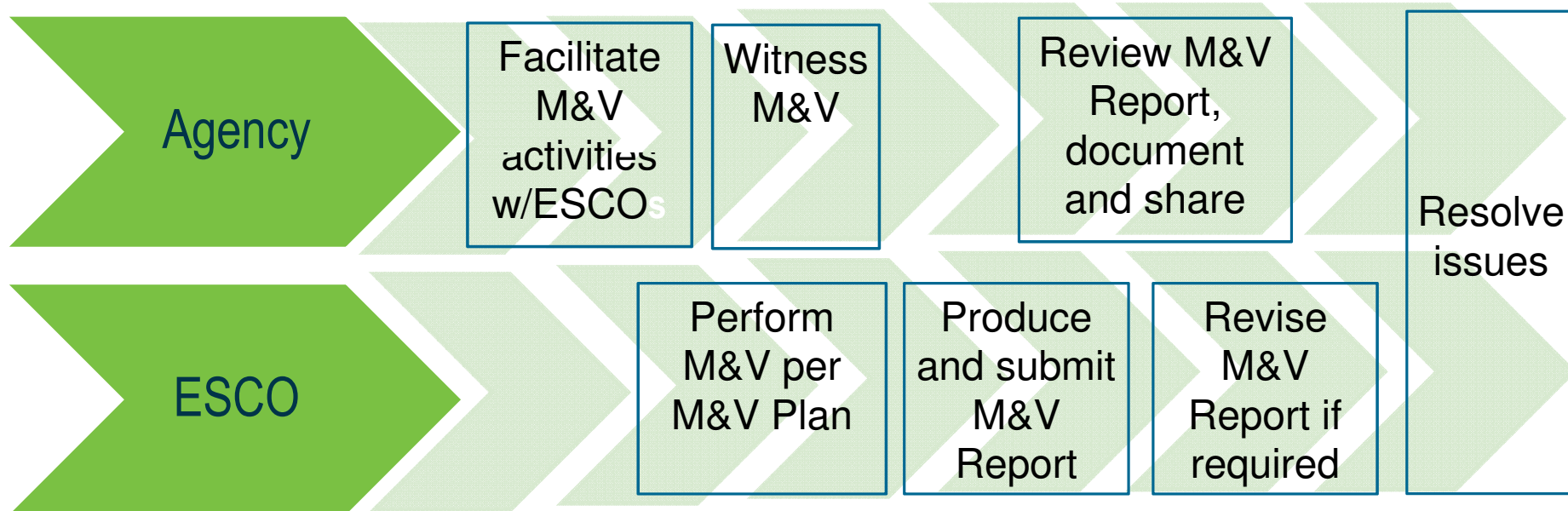
Bottom line: Be aware of site's O&M and R&R responsibilities

- Ensure that O&M and R&R responsibility allocation is clearly understood for each ECM
- If site performs O&M and/or R&R
 - Comply with ESCO's O&M manuals and TO instructions
 - Maintain O&M and R&R records per TO requirements
 - Ensure that personnel receive training and have access to O&M manual

Refer to Guidance on O&M on FEMP Web Site

- *Planning and Reporting for Operations & Maintenance in Federal Energy Savings Performance Contracts*
- *FEMP O&M Best Practices: A Guide to Achieving Operational Efficiency*
- *ASHRAE Guideline 4: Preparation of Operating and Maintenance Documentation for Building Systems*, Atlanta, GA: ASHRAE, 1993.

Annual M&V Activities – Roles and Responsibilities



Agency Facilitates M&V Activities with ESCO

- Provide for ESCO, as needed to carry out M&V:
 - Access, data, escort
 - Records: Utility bills, maintenance, occupancy, etc.
- Coordinate meeting to plan ESCO site visit
- Schedule M&V inspections/data collection
 - Schedule for actual operating conditions and availability of key personnel

Government Witnessing of M&V is

- Agency observation and understanding of M&V procedures, tests, and calculations
- Why witness?
 - Gain independent confirmation of ECM performance (and savings)
 - Be prepared for future audits
 - Part of agency ESPC administration responsibility
 - Promote mutual understanding and ownership in agency–ESCO partnership

Government Witnessing of M&V

- Agency designates witness/COR
- Witness/COR must prepare for and coordinate ESCO M&V site visit
 - Review and understand M&V plan, ECM descriptions, etc.
 - Observe inspections, tests, and measurements
 - Document observations
 - Ask ESCO about problems or questions that have come up during the year
- Graded approach is practical
 - Prioritize to focus on ECMs that contribute most savings and/or represent greatest risk or uncertainty

FEMP Guidance on Witnessing

- FEMP Guidance on witnessing
 - Guide to Government Witnessing and Review of Post-Installation and Annual M&V Activities
 - Available on FEMP ESPC resources page
- **Trust, but Verify!!**

Review of M&V report ideally verifies that

- M&V plan was followed
 - Field-measured values were carried over to report
 - Factors held constant for calculations are per task order
 - Calculations are correct and follow the M&V plan
 - Utility and escalation rates used to calculate cost savings are correct
 - Report provides all required information
 - Savings guarantees were met
-
- FEMP guidance: Reviewing Post-Installation and Annual Reports for Federal ESPC Projects, February 2007

ECM Performance Issues & Resolution

- Provisions for addressing disputes
 - Standard clauses included in IDIQ by reference
 - May be part of M&V Plan
 - May be added to TO by means of TO RFP

Savings Shortfalls

- If M&V report shows savings shortfall
 - ESCO is responsible for resolving ECM performance issues and proposing remediation options
 - Agency withholds part of payment equal to shortfall, and restores payments after issues are resolved
- If agency is found to be (contractually) responsible for shortfall, payments per the TO schedules would continue.

Invoices and Payments

- Invoices begin after agency CO has formally accepted the project
- Usually annual, at beginning of performance year
- Agency is responsible for verifying that invoices contain any required documentation of services provided before paying

Change and Contract Mods

- Modifications after acceptance are often administrative, such as:
 - Putting money on the contract to make a payment
 - Change in CO/COR
 - Documenting M&V report acceptance
 - Documenting changed conditions
- Consider what contract actions would be required if the agency/site decides to
 - Remodel part or all of the building
 - Demolish or remove buildings from service
 - Replace equipment with better technology

Partial or Complete Termination

- Follow the FAR Part 49
- Use the TO – 5 schedule
 - Shows outstanding capital investment on entire project
- Partial termination can occur when:
 - Buildings are being shut down, excess savings allow for buyout of ECM, other
- Complete termination
 - Shutdown of site

Quality Assurance During the ESPC
Performance Period

and

FEMP Life-of-Contract Services

The Only Certainty Over Time is Change

- Things WILL change over the life of the contract – use of buildings, mission, etc.
- CO administration of change is usually required

The LOC Concept: Help with Annual M&V and Changes Over Term of ESPC Contracts

- Ensure that guaranteed savings are realized and ESCO and agency comply with their contractual obligations throughout contract term
- *All sites having DOE IDIQ ESPC projects in the performance period will get FEMP LOC services*

QA Goals: Elements of ESPC Quality

- Guaranteed savings are delivered
- Equipment maintained and operated correctly to satisfy performance criteria and deliver savings
- ESCO performing M&V according to plan and schedule
- Site fulfilling its inspection, O&M, witnessing, and M&V review responsibilities
- Continuity of awareness of ESPC is maintained throughout the performance period
- Site has access to latest FEMP tools and guidance

FEMP LOC Services Address Quality Goals and Help Manage Change

- Reminders/facilitation of M&V process
 - One call before M&V, one call after M&V
- Assistance with contract modifications
- Technical assistance with performance issues
- Track responsible CO, COR, COTR, technical staff
- Keep backup copies of key documentation
- Make staff aware of FEMP training and guidance

Closeout of Task Order

- Agency notifies ESCO by letter that the performance period is over and payments will cease
- If title to equipment and systems was not transferred to agency at time of project acceptance, ESCO transfers title now
- Submit the final Past Performance Evaluation to the PPIRS
- Agency may negotiate for continuing services from ESCO
- Complete all other closeout documentation consistent with agency procedures

Q1: What are the ESCO's responsibilities in M&V activities?

A: Perform M&V tests and measurements, submit M&V report, revise report as necessary, resolve issues.

Q2: What are the agency's roles in M&V activities?

A: Facilitate M&V visits, witness M&V, review M&V report, resolve issues

Q3: What happens when there is a reported savings shortfall?

A: Agency withholds part of payment equal to the shortfall, and then restores payments after issues are resolved.

Q4: If a building improved through the ESPC is demolished, is a contract modification required?

A: Yes, modification, or partial or full termination

Q5: What is the only certainty over time (especially in ESPCs)?

A: Change

Exercise 6 — Reviewing M&V Reports

See Case Study Documents N2 and N3,
Post-Installation M&V Report and
First-Year M&V Report

Break after
Exercise 6 ►

Next: Workshop Wrap-Up ►